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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,415	07/27/2006	Paul Tee Hui Lee	105MC-032	7288
32192	7590	02/17/2009	EXAMINER	
BRADLEY N. RUBEN 503 MITCHELL COURT CHAMPAIGN, IL 61821-3535			MAI, TRI M	
			ART UNIT	PAPER NUMBER
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			02/17/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/587,415	Applicant(s) LEE ET AL.	
	Examiner TRI MAI	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 13, 15 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14, 16-20, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/08/08</u> . | 6) <input type="checkbox"/> Other: ____. |

1. An interview was recorded on 01/21/2009 in which applicant expressed an interest to suspend the examination while a filing new Power of Attorney and a petition for adding new inventors to the application. The examiner called applicant on 02/02/09 and asked that applicant to follow the MPEP section 1.103 which requires a petition and an accompanied fee. The examiner also allowed applicant 2 days to submit such a petition. As of the writing of this office action, 02/12/2009 no petition has been received.
2. Claims 13, 15, and 21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention as previously set forth.
3. The proposed drawing filed 11/20/2008 has been disapproved. The original specification does not teaches the specificities of the seat in Fig. 20, e.g., size, the location for attachment, the straps, the orientation of the seat, etc.
4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the conversion into a push pram (cl. 21), and the child and the child seat (claim 23) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the

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drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 3, it is unclear how the support wheels are inactivated by a stopper. Applicant's explanations are inadequate. It is noted that the recitation "wheels are inactivated by a stopper" suggests there are some mechanical connection between the retractable wheel and the stopper. This is not the case. The description on pg. 12, ln. 34 described a stopper separated from the wheel. Furthermore, it is noted that claim 3 is inconsistent that the luggage case to be rested on the stopper when the steering wheel is in the inactive position.

6. Claims 1, 2, 4-11, 14, 16-20, 22, and 23 rejected under 35 U.S.C. 102(e) as being anticipated by Chomard (FR 2598897). Chomard teaches a wheeled luggage case with a plurality of support wheels 9 at one end of the bottom wall, and a retractable steering wheel assembly having at least one wheel having inactive and active positions as shown in Figs. 1 and 2, and a handle means 16, 19.

Regarding claim 2, note that the term “tricycle wheel configuration” does not impart any structure over the configuration of the wheels in Chomard. In other words, the one wheel 10 and other wheels 9 form a triangular configuration.

Regarding claim 7, note that the support of the wheels comprises the axle at 21 which is also similar to that of the claimed invention.

7. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chomard in view of Alper (5407039). To the degree it is argued that a child set being claimed, it would have been obvious to one of ordinary skill in the art to provide child seat as taught by Alper to provide an alternative transport for the child.

8. Claims 1-2, 4-11, 14, 16-20, and 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuo (6182981). Kuo teaches a wheel luggage with support wheels 40, retractable wheel assembly 35 and handle means.

Regarding claim 19, note that the handle comprises the handle tubes (see Fig. 3C) and these tubes are mounted to the inside of the case approximate the support wheels.

9. Claims 3 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuo in view of Arias et al. (4261447). It would have been obvious to one of ordinary skill in the art to provide a stopper as taught by Arias to enable one to position the device differently.

10. Claims 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuo in view of Lenz. To the degree it is argued that a child set being claimed, it would have been obvious to one of ordinary skill in the art to provide child seat as taught by Lenz to transport the child easily.

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11. Claims 1, 4, 6-11, 14, 16, 17, 19, 20, and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sadow et al. (6193033) in view of Chomard or Moon, Sr. (4717168).

Sadow teaches a device with retractable wheels in the bottom surface as shown in Fig. 16.

Sadow does not teach the wheel position to provide an acute angle extending away from the support wheels. Moon teaches that it is known in the art to provide a cart with the bottom being inclined from the support wheels. Chomard also teaches that it is known in the art to provide inclined angled wheels. Thus, to provide two wheels higher than the support wheels would have been obvious as taught by either Chomard or Moon, Sr.

12. Applicant's arguments have been fully considered but they are not persuasive.

Applicant asserts that the bottom of the case in Chomard is inclined away from the handle 16. The examiner submits that the claim recites a handle at one end and either handle 16 and 29 meet this limitation and one can either pull or push either handles.

With respect to the Kuo reference, the amended claims do not read over the Kuo reference. With respect to the limitation that the bottom wall closely faces the ground during use. The examiner submits that the term "closely" is subjective and does not impart any structure over the bottom of Kuo. In the very least, the lower portion of the bottom wall is closely faces the surface as claimed. With respect to the limitation about the receptacle being pushed with the steering wheels in the leading position, the examiner submits that this is an intended and does not impart any structure over the device in Kuo.

With respect to the rejection of Sadow in view of Chomard or Moon, applicant asserts that there is no motivation to combine the teaching of Sadow with either Chomard or Moon, The examiner the old standard for motivation has been put aside by the Supreme Court in *KSR*. As

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the court explained, and as we quoted previously, when a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it either in the same field or a different one. If a person of ordinary skill can implement a predictable variation § 103 likely bars its patentability. *KSR*, 127 S.Ct. at 1740, 82 USPQ2d at 1396.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRI MAI whose telephone number is (571)272-4541. The examiner can normally be reached on M-F 6 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/TRI MAI/
Primary Examiner, Art Unit 3781